

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEILA PINHEIRO,

Plaintiff,

v.

WASHINGTON MUTUAL BANK, F.A., and
others,

Defendants.

No. C 12-5165 MMC

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION; DISMISSING
CASE**

Before the Court is Magistrate Judge Nathanael M. Cousins' Report and Recommendation, filed February 5, 2013, by which said Magistrate Judge recommends the above-titled action be dismissed for failure to prosecute. As plaintiff Keila Pinheiro was served by mail with the Report and Recommendation on February 5, 2013, any objections thereto were required to be filed no later than February 22, 2013. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d). No objection has been filed.

Having read and considered the procedural history of the above-titled action, and having considered the question of dismissal de novo, the Court hereby ADOPTS, with the limited exception set forth below, the Report and Recommendation in its entirety for the


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1 reasons expressed therein.¹

2 Accordingly, the above-titled action is hereby DISMISSED pursuant to Rule 41(b) of
3 the Federal Rules of Civil Procedure, for failure to prosecute.²

4 **IT IS SO ORDERED.**

5 Dated: February 25, 2013


6 MAKINE M. CHESNEY
United States District Judge

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25 ¹ Additionally, subsequent to Magistrate Judge Cousin's Report and
26 Recommendation, the Court was informed by the ADR Unit that plaintiff failed to appear at
a scheduled telephone conference held February 15, 2013.

27 ² Judge Cousins recommends such dismissal be without prejudice (see Report and
28 Recommendation at 5), but does so in what he describes as "an abundance—perhaps
overabundance—of caution" (see id. at 4:21). Having considered the matter, the Court
finds a dismissal with prejudice is more appropriate in this instance.